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MAR 27 2000

TIMOTHY R. WALBRIDGE, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

IN RE:

DERRELL V. FROST,

Debtor.

**Case No. 99-03398-M
Chapter 7**

SHERRI L. FROST,

Plaintiff,

Adv. Proc. No. 99-0252-M

v.

**DERRELL V. FROST, FROST and
ASSOCIATES, INC.,
FIRST BANK CLAREMORE, and
STEVEN W. SOULÉ,**

Defendant.

JUDGMENT

THIS MATTER comes before the Court pursuant to the Motion for Summary Judgment filed by Defendant First Bank Oklahoma ("FBO").¹ The issues having been duly considered and a decision has been duly rendered, and for the reasons set forth in the Memorandum Opinion filed concurrently herewith,

IT IS HEREBY ORDERED that the Motion for Summary Judgment filed by Defendant, First Bank Oklahoma be, and the same is, granted as set forth herein.

IT IS FURTHER ORDERED that the following facts are established for the purposes of this

¹ In the caption of this adversary proceeding, FBO has been identified as "First Bank Claremore." This appears to be in error. FBO has filed its answer in this adversary proceeding (*See Docket No. 4*) and has appeared in this adversary proceeding on several occasions without objection. For purposes of this Judgment, the Court considers FBO to be the real party in interest.

22

adversary proceeding:

1. FBO is a duly chartered Federal Savings Bank which does business in the State of Oklahoma.
2. On or about September 19, 1994, Derrell V. Frost and Sherri L. Frost, individually, and Frost and Associates, Inc., by and through its officers, (hereafter collectively referred to as "Borrowers") executed a Promissory Note and Security Agreement (the "First Note") in the original principal amount of \$24,030.00 in favor of FBO.
3. On March 23, 1995, Borrowers executed and delivered to FBO a certain Security Agreement pledging additional collateral to secure the \$24,030.00 Note.
4. Under the terms of the Security Agreement, Derrell V. Frost and Sherri L. Frost, individually, and Frost and Associates, Inc., by and through its officers, granted FBO a lien upon the following described property (hereafter referred to as the "Collateral"):
 - a. all inventory;
 - b. all accounts;
 - c. all general intangibles;
 - d. all instruments, documents of title, policies and certificates of insurance, securities, chattel paper, deposits, cash or other property owned by Borrowers or in which Borrowers have an interest which are now or may hereafter be in the possession of FBO;
 - e. all equipment;
 - f. all proceeds and products of the foregoing; and

- g. all inventory, accounts, general intangibles, equipment, chattel paper, securities and instruments acquired with the proceeds of the foregoing and products of the foregoing.
- 5. A Financing Statement with respect to the Collateral was filed in the Office of the County Clerk of Oklahoma County, Oklahoma on March 28, 1995. A continuation statement with respect to said Financing Statement was filed in the Office of the County Clerk of Oklahoma County, Oklahoma on September 15, 1999.
- 6. In addition to the Collateral, Borrowers delivered to FBO the capital stock of Frost & Associates, Inc. as additional security for the indebtedness owed by Borrowers to FBO.
- 7. On October 31, 1995, the First Note was modified by mutual agreement of the parties extending its term and increasing the amount of the indebtedness to \$50,000.00.
- 8. On November 30, 1995, the First Note was again modified increasing the amount due to \$80,000.00.
- 9. Additional modifications involving the terms of the First Note were entered into on May 26, 1996 and November 17, 1999.
- 10. Borrowers are now in default under the terms of the First Note as modified.
- 11. As of January 11, 1999, Borrowers were indebted to FBO under the terms of the First Note in the total amount of \$79,907.56. None of said amount has been paid as of the date of this Memorandum Opinion.
- 12. Interest accrues under the terms of the First Note as modified at the rate of \$22.91 per day.

13. Derrell V. Frost filed a petition for relief under Chapter 7 of the United States Bankruptcy Code on September 3, 1999.

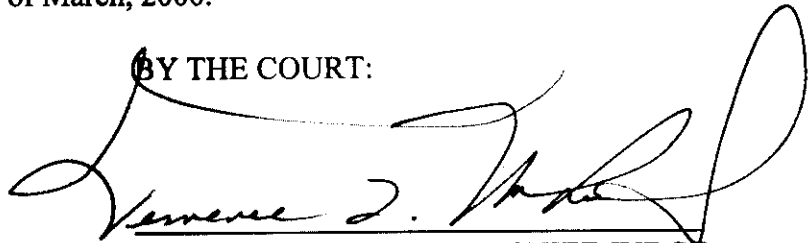
IT IS FURTHER ORDERED that Defendant First Bank Oklahoma holds a validly perfected lien upon the Collateral, as said term is defined herein.

IT IS FURTHER ORDERED that Defendant First Bank Oklahoma holds a validly perfected lien upon the capital stock of Frost & Associates, Inc.

IT IS FURTHER ORDERED that the lien of Defendant First Bank Oklahoma constitutes a valid and enforceable encumbrance against the interests of Derrell V. Frost and Sherri L. Frost, individually, and Frost and Associates, Inc. in the Collateral, as said term is defined herein, and in the capital stock of Frost & Associates, Inc.

Dated this 27th day of March, 2000.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Terrence L. Michael", is written over a horizontal line.

TERRENCE L. MICHAEL, CHIEF JUDGE
UNITED STATES BANKRUPTCY COURT

cc: Steven W. Soulé
Gerald R. Miller
Larry E. Rahmeier
Scott P. Kirtley

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